

UNITED STATES DISTRICT COURT
DISTRICT OF RHODE ISLAND

EVA GAMBLE

v.

STATE OF RHODE ISLAND,
DEPARTMENT OF CHILDREN,
YOUTH AND FAMILIES, and
KIMBERLY JOLY-SOW

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C.A. No. 10-512ML

REPORT AND RECOMMENDATION

Lincoln D. Almond, United States Magistrate Judge

On December 28, 2010, this Court preliminarily reviewed Plaintiff's pro se Complaint pursuant to 28 U.S.C. § 1915(e)(2)(B)¹ and expressed concern that it failed to state any viable legal claims in its present form. (See Document No. 4). Rather than recommending dismissal of Plaintiff's Complaint at that time, the Court outlined the issues for Plaintiff and ordered her to file an Amended Complaint addressing such issues within thirty (30) days or risk dismissal of this case. Id. at p. 4. To date, Plaintiff has not filed an Amended Complaint as Ordered or sought an extension of time for doing so. Thus, the Court is compelled at this point to recommend that Plaintiff's Complaint be summarily dismissed without prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B) because it fails to presently state a claim on which relief may be granted (see Document No. 4) and also due to Plaintiff's failure to file an Amended Complaint as Ordered.

Any objection to this Report and Recommendation must be specific and must be filed with the Clerk of the Court within fourteen (14) days of its receipt. See Fed. R. Civ. P. 72(b); LR Cv 72.

¹ Plaintiff's Complaint is subject to screening under 28 U.S.C. § 1915(e)(2) because she has sought excusal from the \$350.00 civil case filing fee due to financial hardship.

Failure to file specific objections in a timely manner constitutes waiver of the right to review by the District Court and the right to appeal the District Court's decision. See United States v. Valencia Copete, 792 F.2d 4, 6 (1st Cir. 1986); Park Motor Mart. Inc. v. Ford Motor Co., 616 F.2d 603, 605 (1st Cir. 1980).

/s/ Lincoln D. Almond
LINCOLN D. ALMOND
United States Magistrate Judge
February 24, 2011